



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

200600457

Issuance Date:

June 9, 2006

Stream:

Flat Branch

Closing Date:

July 9, 2006

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Allied Waste
Cherokee Run Landfill
2946 U.S. Route 68 North
Bellefontaine, OH 43311

LOCATION: The proposed project is located on Flat Branch and an unnamed tributary to Cherokee Run in Logan County, Ohio. Flat Branch is a tributary to Bokengehalas Creek, which flows into the Great Miami River, which becomes a Section 10 navigable water of the United States. Cherokee Run flows into Cherokee Mans Run, which is a tributary of the Great Miami River.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place native soil fill material from onsite earthwork cut into approximately 5,095 linear feet of intermittent Flat Branch and into 1,200 linear feet of the intermittent unnamed tributary to Cherokee Run and 2.1 acres of its adjacent wetlands. The proposed fill activity would facilitate the expansion of the existing Cherokee Run Landfill. The intermittent headwater stream of Flat Branch was previously rerouted and channelized.

MITIGATION: Approximately 9,166 linear feet of new stream channel will be constructed onsite with a naturalized stream channel design as mitigation for the 6,295 linear feet of total stream impact. A minimum of 3.15 acres of wetland creation is proposed on adjoining property for the 2.1 acres of jurisdictional emergent wetland impacted (1.5:1 ratio).

The mitigation proposal is currently under review by the Corps.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

ALTERNATIVE ANALYSIS: A total of 2.1 acres of jurisdictional wetlands would be filled as a result of the proposal. The project does not require access to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently under review. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined that there are currently no historic properties listed in the National Register in the area affected by the project. A report of a Phase I Cultural Resources Management investigation was completed on July 21, 2004 and a Phase II Archaeological Assessment was completed on December 12, 2005. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Our office, in consultation with the OHPO and other consulting parties, will continue to evaluate the potential for adverse impacts to historic properties associated with this proposal. Comments concerning archaeological sensitivity of the project area should be based on collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species:

Indiana bat

The Huntington District has consulted the most recently available information and based on the proposed avoidance and minimization measures and coordination between the applicant and the United States Fish & Wildlife Service, the project will have no affect on this species or designated Critical Habitat for this Federally listed species. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.


SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding

of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

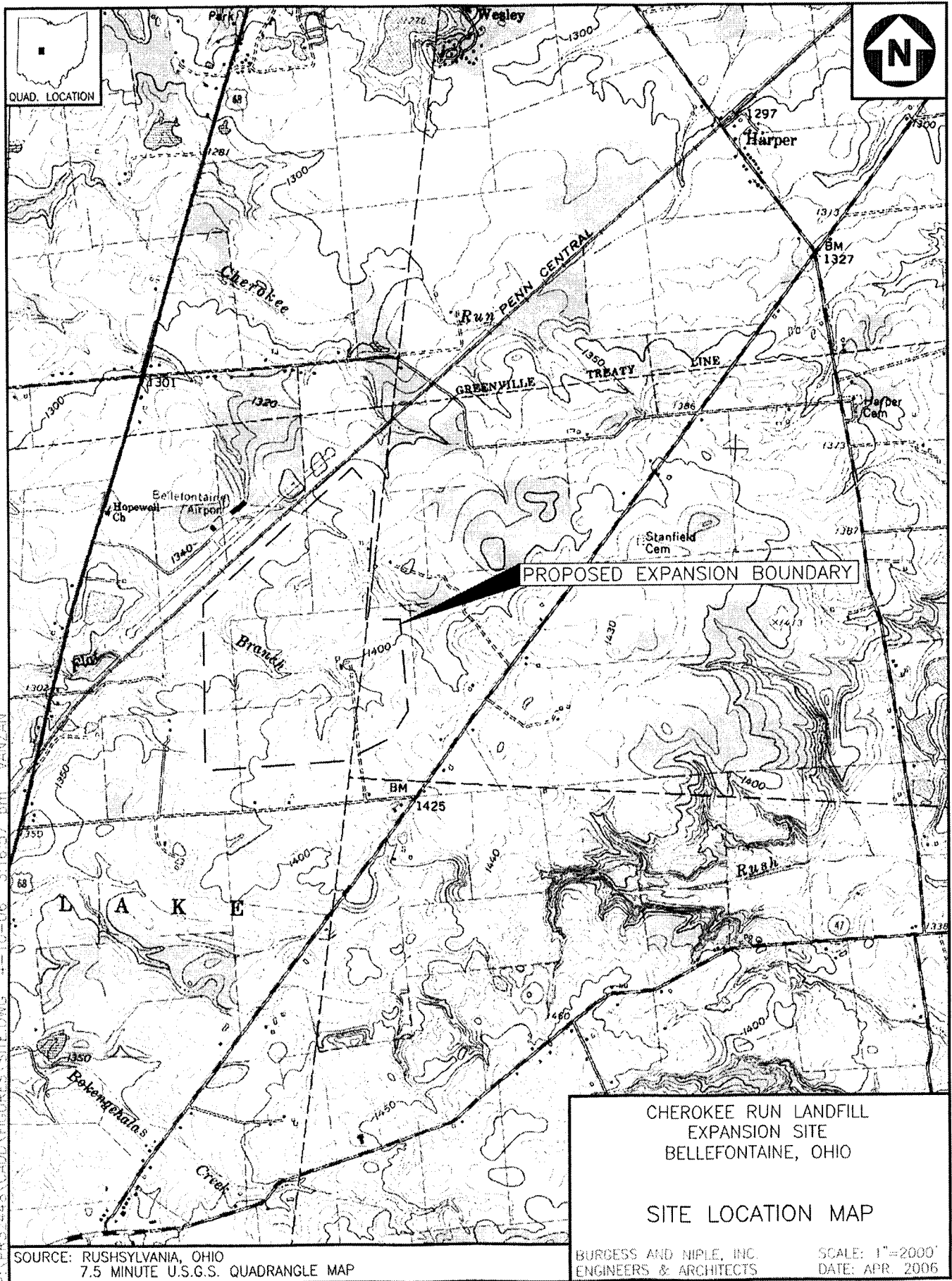
North Regulatory Permit Section - CELRH-OR-FN-200600457
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Ms. Denise Marmer of the North Regulatory Section at (513) 825-4518.



Ginger Mullins
Chief, Regulatory Branch

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DATE	NO.	BY	CHK
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5/3/2006	3	RYAN VANZANT	RYAN VANZANT
5/3/2006	4	RYAN VANZANT	RYAN VANZANT
5/3/2006	5	RYAN VANZANT	RYAN VANZANT

BURGESS & NIPLE, Inc.
COLUMBUS, OHIO



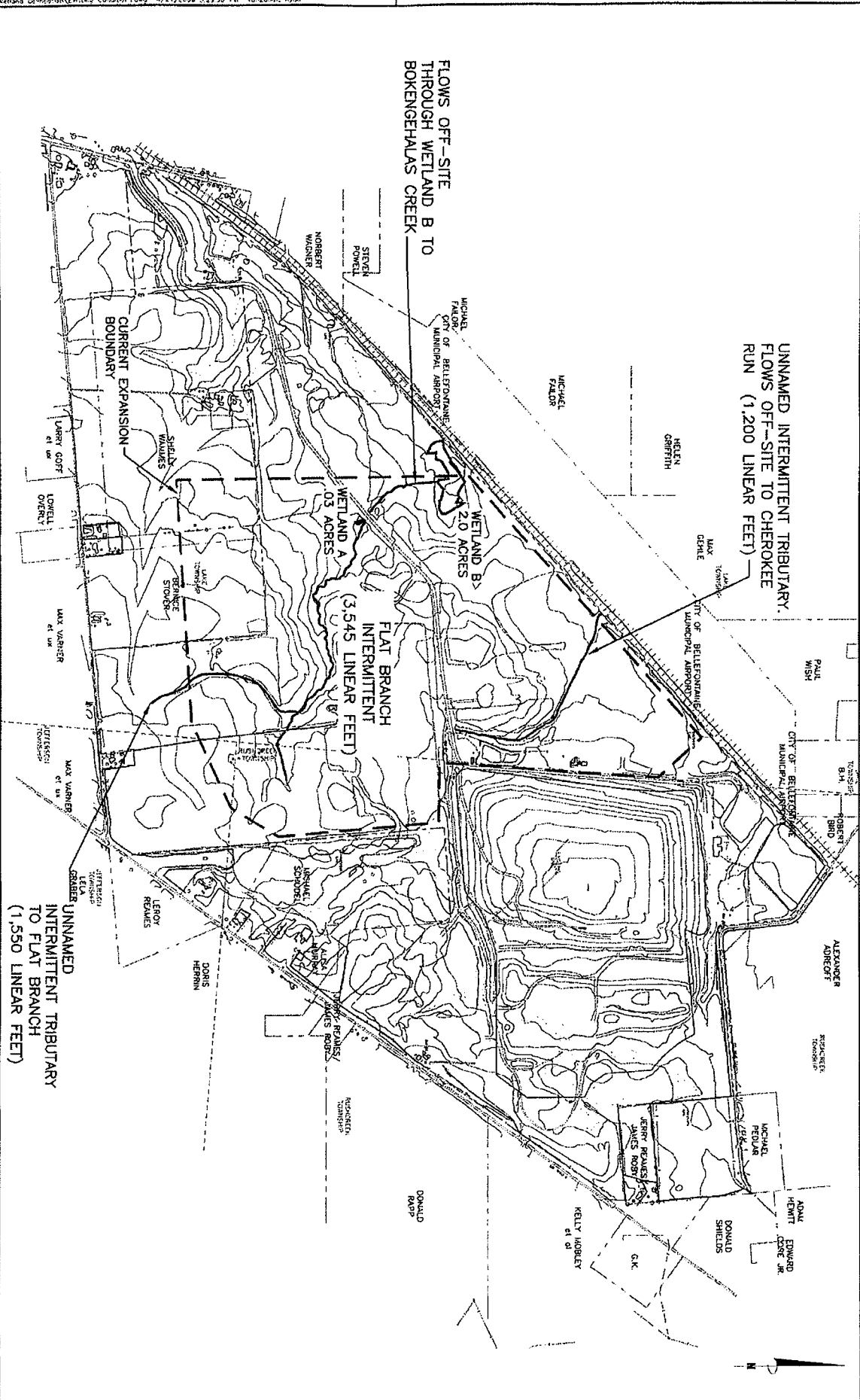
BURGESS & NIPLE

CHEROKEE RUN LANDFILL
LOGAN COUNTY, OHIO

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EXPANSION AREA
EXISTING CONDITIONS

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FLows OFF-SITE
THROUGH WETLAND B TO
BOKENGEHALAS CREEK

UNNAMED INTERMITTENT TRIBUTARY.
FLows OFF-SITE TO CHEROKEE
RUN (1,200 LINEAR FEET)

UNNAMED
INTERMITTENT TRIBUTARY
TO FLAT BRANCH
(1,550 LINEAR FEET)

